

3 FAM 7700 FSN EMPLOYEE BENEFITS, DISCIPLINARY ACTIONS, SEPARATIONS, AND REEMPLOYMENT

3 FAM 7710 FSN EMPLOYEE BENEFITS UNDER U.S. LAW

3 FAM 7711 CIVIL SERVICE RETIREMENT AND DISABILITY SYSTEM (CSR)

3 FAM 7711.1 General

(TL:PER-237; 1-1-95)

(Uniform State/USAID/USIA/Commerce/Agriculture)

(Applies to Foreign Service Nationals Only)

The Civil Service Retirement and Disability System (5 U.S.C. 8331 through 8348), as described in 3 FAM 6000 (to be published), applies equally to Americans and FSN's, except as discussed in section 3 FAM 7711.2.

NOTE: For USAID, also see Handbook 30, Separations and Disciplinary Actions.

3 FAM 7711.2 Coverage

(TL:PER-237; 1-1-95)

(Uniform State/USAID/USIA/Commerce/Agriculture)

(Applies to Foreign Service Nationals Only)

FSN employees are covered by the U.S. Civil Service Retirement and Disability System if:

- (1) They have either a conditional or permanent appointment, or
- (2) They are serving under another type of appointment to which they were transferred before October 1, 1965, and to which CSR coverage was continued from a prior appointment.

NOTE: An amendment to the Civil Service retirement regulations, effective October 1, 1965, prohibits continuance of CSR contributions for an FSN employee whose type of employment is changed on or after that date to other than a conditional or permanent appointment. This amendment does not apply to renewals of personal services contracts for employees who were contributing to CSR by virtue of prior direct-hire permanent employment.

3 FAM 7711.3 Reasons For Causing Cessation of CSR Contributions

(TL:PER-237; 1-1-95)

(Uniform State/USAID/USIA/Commerce/Agriculture)

(Applies to Foreign Service Nationals Only)

An FSN employee who has acquired CSR coverage should continue contributions as long as the FSN employee remains an employee of the U.S. Government unless the provisions of sections 7711.3-1 or 7711.3-2 apply.

3 FAM 7711.3-1 Employee Obtained Retirement Coverage Under a Host Government Plan When Adopted by the Overseas Establishment

(TL:PER-237; 1-1-95)

(Uniform State/USAID/USIA/Commerce/Agriculture)

(Applies to Foreign Service Nationals Only)

Salary deductions for CSR coverage normally are terminated when the employee is covered by a host government retirement plan to which the overseas establishment is contributing directly, as provided in 3 FAM 7342. This is accomplished by processing Form SF-50, Notification of Personnel Action, changing the employee's type of appointment from permanent or conditional to indefinite.

3 FAM 7711.3-2 Employee Obtained Retirement Coverage Under A Host Government Plan When Not Adopted By The Overseas Establishment

(TL:PER-237; 1-1-95)

(Uniform State/USAID/USIA/Commerce/Agriculture)

(Applies to Foreign Service Nationals Only)

Salary deductions for CSR coverage may be terminated at the request of the employee concerned when the employee joins a host government retirement plan to which the overseas establishment is not contributing. The following steps are to be taken when the employee requests discontinuance of CSR contributions for this reason:

(1) The employee informs the overseas establishment in writing that the employee no longer wishes to retain CSR coverage inasmuch as the employee prefers to participate in the employee's host government retirement plan (proof of the employee's membership must be given);

(2) The overseas establishment discusses the matter with the employee and emphasizes the importance of being covered by a retirement plan. It is also pointed out that as a progressive employer the post expects the individual to continue contributing to his new retirement plan so long as the employee remains an employee of the U.S. Government.

(3) The overseas establishment advises the employee by letter that:

(a) The discontinuation of the employee's CSR contributions is at the employee's request;

(b) The CSR contributions are being discontinued to enable the employee to join the host government retirement plan;

(c) The employee shall continue contributions to the employee's government retirement plan so long as the employee remains a U.S. Government employee to enable the employee to acquire appropriate social benefits for self and family;

(d) The U.S. Government will not pay any portion of the host government retirement plan as it did for the CSR plan;

(e) The employee may choose to withdraw contributions from the Civil Service Retirement System or, if eligible, the employee may leave the contributions in the CSR Fund until becoming eligible for a deferred annuity (see Section 7711.5);

(4) A copy of the employee's letter requesting termination of CSR coverage and a copy of the overseas establishment's letter, countersigned by the employee confirming its receipt, are placed in the employee's personnel file.

(5) The overseas establishment processes Form SF-50, changing the type of appointment from permanent or conditional to indefinite.

3 FAM 7711.4 Actions Causing Cessation of CSR Salary Deductions

(TL:PER-237; 1-1-95)

(Uniform State/USAID/USIA/Commerce/Agriculture)

(Applies to Foreign Service Nationals Only)

Overseas establishments are to exercise care to preclude issuing personnel actions which would inadvertently cause loss of CSR coverage. The following personnel actions could automatically cause cessation or denial of an employee's contribution to CSR:

(1) Change of direct-hire appointment to any type other than a permanent or conditional appointment.

(2) Change of contractual employment covered by CSR from a personal services contract to another type contract (renewal of a personal services contract does not constitute a disqualifying change).

(3) Change from direct-hire to employment under a personal services or other contract.

(4) Reappointment, following a break in service, to other than a permanent or conditional appointment.

(5) Reemployment under a personal services or other contract following a break in service.

(6) Transfer to another U.S. Government agency which does not authorize appointments entitling FSN personnel to continue CSR.

Note: Upon receipt of Form SF-50 effecting any of the above actions, the headquarters agency automatically forwards the employee's records to the Civil Service Commission for retention in the records division until claim for refund or retirement is made.

3 FAM 7711.5 Effect of Cessation of CSR Contributions on Past Retirement Deductions

(TL:PER-237; 1-1-95)

(Uniform State/USAID/USIA/Commerce/Agriculture)

(Applies to Foreign Service Nationals Only)

a. An FSN employee with 5 or more years of creditable Federal service who ceases to contribute to CSR is eligible either for a deferred annuity at age 62 (not discontinued service retirement) or for a refund of retirement deductions before age 62. An employee with less than 5 years of creditable Federal service is eligible for a refund of retirement deductions and normally will find it advantageous to obtain such refund.

b. An employee who elects a deferred annuity must be separated from the service in order to receive the annuity.

3 FAM 7711.6 Effect of Cessation of Contributions on Crediting Subsequent Service for CSR

(TL:PER-237; 1-1-95)

(Uniform State/USAID/USIA/Commerce/Agriculture)

(Applies to Foreign Service Nationals Only)

No Federal Service that an FSN employee performs after losing the right to contribute to CSR may be creditable towards Civil Service retirement unless it is followed by service under a conditional or permanent appointment.

3 FAM 7711.7 Reinstatement in CSR

(TL:PER-237; 1-1-95)

(Uniform State/USAID/USIA/Commerce/Agriculture)

(Applies to Foreign Service Nationals Only)

See 3 FAH-1 H and 3 FAH-2H, Chapter 3.

3 FAM 7711.8 Effect of Making Deposits and Redeposits for CSR

3 FAM 7711.8-1 Deposits

(TL:PER-237; 1-1-95)

(Uniform State/USAID/USIA/Commerce/Agriculture)

(Applies to Foreign Service Nationals Only)

The making of a deposit is purely optional. Whether an employee should make a deposit is a personal matter on which no general advice can be given. Making the deposit will assure the employee and/or survivors maximum potential retirement annuity, and the employee must view the matter as the employee would any other investment for the benefit of self and family. Deposit may be made or completed after the death of the employee by a survivor who is qualified to receive annuity benefits.

- a. Effect on Annuity--Employees who have had creditable service for which deductions were not made for any reason will receive credit for such service in the computation of annuity benefits without making a deposit to cover the period of service. However, if a deposit is not made by the employee or the employee's survivor, or if installment payments are begun and not completed, the annuity otherwise payable will be reduced by an amount equal to 10 percent of the balance due and unpaid, unless the employee elects to eliminate the service entirely from credit for annuity computation purposes. (For FSN employees, see 4 FAM.) The elimination of a period of service from credit is advisable only when the employee has sufficient other service to entitle the employee to the maximum annuity. Full credit is allowed without deposit for all service prior to August 1, 1920, for service with the Panama Railroad Company prior to January 1, 1924, and for creditable military service.
- b. Amount of Deposits--Deposits will be computed on the basis of the following percentages of basic salary for the periods indicated:

2-1/2% from August 1, 1920, to June 30, 1926; 3-1/2% from July 1, 1926, to June 30, 1942; 5% from July 1, 1942, to June 30, 1948; 6% from July 1, 1948, to October 31, 1956; 6-1/2% from November 1, 1956, to December 31, 1969; and 7% after December 31, 1969.

To the above is added interest computed from the midpoint of each period of service to the date of deposit or commencing date of annuity, whichever is earlier, at the rate of 4 percent to December 31, 1947, and 3 percent thereafter, compounded annually, except that no interest shall be charged for any period of separation from the service which began before October 1, 1956.

3 FAM 7711.8-2 Redequests

(TL:PER-237; 1-1-95)

(Uniform State/USAID/USIA/Commerce/Agriculture)

(Applies to Foreign Service Nationals Only)

In most cases, it is definitely to the employee's advantage to make a redeposit. Redeposit may be made or completed after the death of the employee by a survivor who is qualified to receive annuity benefits. (For USAID, also see Handbook 30, Separations and Disciplinary Actions.)

- a. Effect on Annuity--If an employee has received a refund of retirement deductions under the Civil Service Retirement System, the Foreign Service Retirement and Disability System, or any other system for the retirement of Government employees, the employee or the employee's survivor must make a redeposit to the Fund before the service can be credited in the computation of annuity benefits.
- b. Amount of Redeposit--A redeposit consists of the amount refunded to the employee plus interest. Interest is computed from the date of the refund to date of redeposit or commencing date of annuity, whichever is earlier (excluding any period of separation from the service which began before October 1, 1956) at the rate of 4 percent to December 31, 1947, and 3 percent thereafter, compounded annually.

An employee may not apply to make a redeposit to cover only a portion of a period of service for which deductions were refunded. Where installment payments on a redeposit are not completed prior to final adjudication of an application for retirement, or prior to the death of the employee before retirement, and the survivor does not complete the payments, the installment payments will be applied as follows:

(1) If two or more periods of service are involved, the amount will be applied to the best advantage of the employee to purchase as many complete periods of service as possible.

(2) If only one period of service is involved, or if installment payments are not sufficient to cover a complete period of service, the installment payments will be refunded, unless redeposit is completed at the time the claim for annuity is adjudicated.

3 FAM 7711.8-3 Application by FSN Employees

(TL:PER-237; 1-1-95)

(Uniform State/USAID/USIA/Commerce/Agriculture)

(Applies to Foreign Service Nationals Only)

a. Application by FSN employees for deposit or redeposit for past creditable service is made on Form SF-2803, Application To Make Deposit or Redeposit. The form is initiated by the employee. Post officials review the form, verify service claimed against the employee's official personnel folder, and execute the certification block on the reverse of the form. The certified SF-2803 is forwarded directly to the Bureau of Retirement, Insurance, and Occupational Health, Claims Division, Office of Personnel Management, Washington D.C. 20415. (For USAID, also see Handbook 30, Separations and Disciplinary Actions.)

b. If Form SF-2806, Individual Retirement Record, has not been forwarded to the Department, or Agency, the post shall complete Form SF- 2806 with information from the employee's official personnel folder showing per annum salary rates in U.S. dollars. (See section 3 FAM 7242.4-3)

c. The Office of Personnel Management determines if the service claimed is creditable, computes the amount due, and advises the employee directly.

d. If the FSN employee is unable to pay the deposit or redeposit amount in lump-sum, the employee may request the Office of Personnel Management to approve installment payments of \$25.00 or more with interest chargeable on the unpaid balance of the total due. All payments must be made in U.S. dollars directly to the Office of Personnel Management by negotiable instrument, such as cashier's check, bank draft, international money order, or Treasury check obtained through the U.S. Disbursing Officer (USDO) (see also 4 FAM). Charges incurred for conversion of local currency, purchase of dollar instruments, and transmittal are the employee's responsibility.

e. The post cannot assume responsibility for or guarantee future installment payments through a job commitment.

3 FAM 7711.9 Supplemental Payments for Certain Non-American CSR Annuitants

3 FAM 7711.9-1 Authority

(TL:PER-237; 1-1-95)

(Uniform State/USAID/USIA/Commerce/Agriculture)

(Applies to Foreign Service Nationals Only)

The authority for supplemental payments for certain non-American CSR annuitants can be found in Section 408(a)(2) of the Foreign Service Act of 1980 (hereinafter referred to as the Act).

3 FAM 7711.9-2 Coverage

(TL:PER-237; 1-1-95)

(Uniform State/USAID/USIA/Commerce/Agriculture)

(Applies to Foreign Service Nationals Only)

Sections 408(b) and (c) of the Act provide the legal basis for all U.S. Government agencies (USG) to conform with section 408(a)(2) of the Act.

3 FAM 7711.9-3 Funding

(TL:PER-237; 1-1-95)

(Uniform State/USAID/USIA/Commerce/Agriculture)

(Applies to Foreign Service Nationals Only)

Supplemental payments will be paid by the Department of State. If an annuitant worked for another agency immediately prior to retirement, that agency shall reimburse the Department for the amount of the payments. However, any agency may establish its own payment program in lieu of reimbursement by the Department.

3 FAM 7711.9-4 Eligibility Determination

(TL:PER-237; 1-1-95)

(Uniform State/USAID/USIA/Commerce/Agriculture)

(Applies to Foreign Service Nationals Only)

a. Country Eligibility--The eligibility of a non-American CSR annuitant depends on the annuitant's country of employment meeting both of the following criteria.

(1) Appreciation of Foreign Currency--A country's average end of the month exchange rate for twelve months of the recently completed calendar year must appreciate by at least 20% over the average end of the month exchange rate for the calendar year in which the annuitant retired (retirement year).

(2) Benefit Comparison--The country's locally prevailing retirement benefits on average must exceed the net present value of retirement benefits provided to FSN employees who receive CSR benefits. Such retirement benefits include but are not limited to host government social insurance, supplemental pension plans, severance pay and other benefits or gratuities received by comparable employees upon retirement, whether or not the USG contributes to the program.

b. Individual Eligibility--An individual annuitant is eligible for the supplement if the annuitant meets the following criteria.

(1) The annuitant retires within a calendar year that meets the above currency appreciation criterion from a post that also qualifies under the benefit comparison criterion, and

(2) The annuitant served at least two of the last three years in an eligible country, and

(3) The annuitant must engage in local currency exchange rate transactions in order to negotiate the CSR annuity, or

(4) The individual is a survivor of an annuitant who is eligible for a supplemental CSR annuity payment.

c. Cross Country Eligibility

(1) An eligible annuitant or survivor who subsequently takes up residence in another eligible country shall receive the supplemental payment for either the country in which the annuitant was employed as an FSN or the country in which residing, whichever supplement is less, according to the computation using each country's foreign currency appreciation.

(2) An eligible annuitant or survivor who subsequently takes up residence in a non-eligible country shall not be eligible for a supplement during periods of residence in a non-eligible country. Partial months of residence are treated as residence in the non-eligible country.

(3) An ineligible annuitant or survivor who subsequently takes up residence in an eligible country meeting the benefit comparison criterion shall not be eligible to receive a supplemental payment.

(4) For purposes of this subsection, Andorra and Monaco shall be considered as parts of France; Liechtenstein as part of Switzerland; and San Marino and the Vatican as parts of Italy.

3 FAM 7711.9-5 Computation and Payment of Supplements

(TL:PER-237; 1-1-95)

(Uniform State/USAID/USIA/Commerce/Agriculture)

(Applies to Foreign Service Nationals Only)

- a. Computation--Budget permitting, the Director General in the State Department will normally provide an annuity supplement of 80% of the percentage difference between average end of the month exchange rates for the calendar years compared in section 7711.9-4a(1). The supplement will be applied to the annuity given in the year following the recently completed calendar year. Upon concurrence by all affected Foreign Affairs agencies, the Director General may vary the amount of this supplement in any given year, again, budget permitting.
- b. Effective Date--Any supplements due eligible annuitants or survivors can be paid in whole or in partial payments on or after January 1 of the year following the recently completed calendar year upon PER/FSN certification to PER/EX as to which groups of annuitants meet the eligibility requirements. Groups will be identified by the qualifying retirement year and country from which retired. Payments made prior to the publication date of these regulations will not be recomputed.

3 FAM 7711.9-6 Filing for Payment

(TL:PER-237; 1-1-95)

(Uniform State/USAID/USIA/Commerce/Agriculture)

(Applies to Foreign Service Nationals Only)

Once a country's eligibility has been established and a group or groups within the country have been found eligible for the supplements, budget permitting the Department will make supplemental payments to those eligible employee or survivor annuitants who are presently receiving regular CSR annuity checks in that country. An annuitant who retired from an eligible country and is residing outside of that country but fulfills the requirements for individual eligibility must file a claim to the Department, FMP/FO, through the American Embassy in the country of retirement. Payments to such individuals will commence upon validation of their claims and will not be retroactive.

3 FAM 7711.9-7 Duration of Country Eligibility Determination

(TL:PER-237; 1-1-95)

(Uniform State/USAID/USIA/Commerce/Agriculture)

(Applies to Foreign Service Nationals Only)

Local retirement systems do not change significantly over time. Therefore, once a country meets the country eligibility requirements, unless there is a major change in either U.S. law affecting the CSR system or local law or practice affecting the local system, benefit comparison studies need not be made any more often than every five to ten years. Posts are responsible for keeping abreast of any major changes in local law or practice which might precipitate the need for more frequent comparison studies and should so advise the Department.

3 FAM 7711.9-8 Requests for Assistance

(TL:PER-237; 1-1-95)

(Uniform State/USAID/USIA/Commerce/Agriculture)

(Applies to Foreign Service Nationals Only)

Requests for assistance concerning country and group eligibility should be directed to PER/FSN. Requests for assistance concerning individual eligibility should be directed to FMP/FO.

3 FAM 7712 DISABILITY COMPENSATION

3 FAM 7712.1 Policy

(TL:PER-237; 1-1-95)

(Uniform State/USAID/USIA/Commerce/Agriculture)

(Applies to Foreign Service Nationals Only)

An FSN employee who suffers illness or sustains an injury in the performance of duty may be entitled to compensation under the provisions of the Federal Employee's Compensation Act (5 USC 8101-8150) as administered by the Department of Labor's Office of Workers' Compensation Program (OWCP). The basic provision and requirements for U.S. citizen employees as outlined in 3 FAM 3620 (to be published) and 3 FAH-3 H-3620 except as regards amount of compensation (see 3 FAM 7732.3) and continuation of pay, apply also to FSN employees.

3 FAM 7712.2 Amount of Compensation

(TL:PER-237; 1-1-95)

(Uniform State/USAID/USIA/Commerce/Agriculture)

(Applies to Foreign Service Nationals Only)

a. As determined by OWCP, an FSN employee may be compensated in one of the following ways:

(1) In accordance with the schedule of compensation specified in the FEC Act for U.S. citizen employees; or

(2) In accordance with the benefit provisions of local law or custom of the country in which the overseas establishment is located; or

(3) In accordance with special schedules of compensation promulgated by the OWCP for citizens or residents of a specified country or area, for example, Australia and the Philippines.

b. It is the responsibility of the head of the overseas establishment to recommend an appropriate amount of compensation, normally based upon local law or custom, in its report and in any subsequent claim relating to a case. The OWCP may, if it is in the interest of the United States, make payment in a lump sum for partial or total disability or for death, after which no further claim may be made against the U.S. Government by the FSN employee or dependents.

3 FAM 7712.3 Emergency Medical Expenses

3 FAM 7712.3-1 Authority

(TL:PER-237; 1-1-95)

(Uniform State/USAID/USIA/Commerce/Agriculture)

(Applies to Foreign Service Nationals Only)

Heads of overseas establishments or their designees may make emergency payments of medical bills directly from applicable agency funds in accordance with special authority granted the agencies by OWCP. The OWCP will reimburse the agency upon certification by the appropriate officer that the treatment for which payments were made was for injury sustained in the performance of duty and that such injury was not caused by the willful misconduct of the employee or by the employee's intention to bring about injury to self or another, and that intoxication was not the approximate cause of the injury.

3 FAM 7712.3-2 Funding

(TL:PER-237; 1-1-95)

(Uniform State/USAID/USIA/Commerce/Agriculture)

(Applies to Foreign Service Nationals Only)

a. Payment for the emergency treatment and/or hospitalization of FSN employees of State whose salaries are paid from appropriated funds will be made from Washington-held allotment 2034. Such payments for USAID employees whose salaries are paid from appropriated funds will be made from the allotment used to pay the employee's salary. Such payments for USIA employees are charged to USIA GE allotment, resource code 25102.

b. Bills for reimbursement for the cost of emergency treatment paid by the agencies are submitted to OWCP in accordance with provisions of Section 4030, Title 7, GAO Manual for Guidance of Federal Agencies. The documentation in support of the billing consists of two copies of paid vouchers or bills. The vouchers or bills show the full name (same as reported on C.A. 1 and C.A. 2; see 3 FAH-3 H-3600) of the injured employee; date of injury, as well as the date or dates of treatment; character of services or supplies; amounts for each; and name of doctor, hospital, or vendor furnishing the services or supplies, translated into English at the post.

3 FAM 7712.3-3 Special Provisions Applicable to USAID

(TL:PER-237; 1-1-95)

(Uniform State/USAID/USIA/Commerce/Agriculture)

(Applies to Foreign Service Nationals Only)

Payment of compensation and emergency treatment and hospitalization for FSN employees whose salaries are paid from local currency trust funds are charged to such funds provided payment can be made within the provisions of current agreements with the cooperating government. If the current agreement is so restrictive that this type of expense cannot be paid from the trust fund account, any local currency source available may be used provided it is legal to do so, or the allotment from which U.S. citizen employees in the same office are paid may be used. Costs paid from the local currency trust fund account or from other local currency sources will not be reimbursed by OWCP. (See also Handbook 19, Section 10D, Accounting for Medical Expenses.)

3 FAM 7712.3-4 Continued Treatment

(TL:PER-237; 1-1-95)

(Uniform State/USAID/USIA/Commerce/Agriculture)

(Applies to Foreign Service Nationals Only)

Authorization for continued treatment is requested immediately from OWCP. Full details of the circumstances of the injury and type of treatment given shall be provided. The Bureau will allow or disallow treatment on the basis of whether they are compensable under United States law as work-connected illness.

3 FAM 7712.4 Reporting Procedures

(TL:PER-237; 1-1-95)

(Uniform State/USAID/USIA/Commerce/Agriculture)

(Applies to Foreign Service Nationals Only)

See section 3 FAH-1 for reporting and related procedures. Include in the report the overseas establishment's recommendation on amount of compensation, as described in section 3 FAM 7712. (In addition, report any accidents involving local employees to the post Safety Officer for inclusion in the report in accordance with 6 FAM and USAID Handbook 20, Office Services.)

3 FAM 7713 HEALTH UNIT FACILITIES

(TL:PER-237; 1-1-95)

(Uniform State/USAID/USIA/Commerce/Agriculture)

(Applies to Foreign Service Nationals Only)

See 3 FAM 1900 (to be published).

3 FAM 7714 DEATH GRATUITY

(TL:PER-237; 1-1-95)

(Uniform State/USAID/USIA/Commerce/Agriculture)

(Applies to Foreign Service Nationals Only)

Survivors of any FSN employee who died or dies on or after August 1, 1974, as a result of injuries sustained in the performance of duty outside the United States are eligible for payment of a death gratuity under conditions in 3 FAM 3650 (to be published).

3 FAM 7715 SPECIAL IMMIGRANT STATUS

(TL:PER-237; 1-1-95)

(Uniform State/USAID/USIA/Commerce/Agriculture)

(Applies to Foreign Service Nationals Only)

The Immigration and Nationality Act, as amended, provides special immigrant status for “an immigrant who is an employee, or an honorably retired former employee, of the U.S. Government abroad, and who has performed faithful service for a total of fifteen years, or more, and his accompanying spouse and children: Provided, that the principal officer of a Foreign Service establishment, in his discretion, shall have recommended the granting of a special immigrant status to such alien in exceptional circumstances and the Secretary of State approves such recommendation and finds that it is in the national interest to grant such status.” (See 9 FAM 42.26, 9 FAM 42.26 Regs/Statutes and pertinent notes; also see 8 U.S.C. 110.1.)

3 FAM 7716 ALLOTMENTS OF PAY

(TL:PER-237; 1-1-95)

(Uniform State/USAID/USIA/Commerce/Agriculture)

(Applies to Foreign Service Nationals Only)

Regulations governing allotments of pay for FSN employees are contained in 4 FAM. For USAID, see Handbook 26, Position Classification, Pay, and Allowances.

3 FAM 7717 FINANCIAL ASSISTANCE

(TL:PER-237; 1-1-95)

(Uniform State/USAID/USIA/Commerce/Agriculture)

(Applies to Foreign Service Nationals Only)

An employee association is authorized to operate a loan fund for FSN employees, financed from unofficial funds, if not prohibited by local law. The treasurer of the loan fund should be bonded at the fund's expense. (See 6 FAM; For USAID, see Handbook 23, Overseas Support.)

3 FAM 7718 COMPENSATION OF IMPRISONED ALIENS

3 FAM 7718.1 Purpose

(TL:PER-237; 1-1-95)

(Uniform State/USAID/USIA/Commerce/Agriculture)

(Applies to Foreign Service Nationals Only)

This section provides terms and conditions for authorizing compensation payments for current or former Foreign Service National employees of State, USAID, USIA, Commerce, and Agriculture, who are or were imprisoned by foreign governments as a result of their employment by the United States.

3 FAM 7718.2 General

(TL:PER-237; 1-1-95)

(Uniform State/USAID/USIA/Commerce/Agriculture)

(Applies to Foreign Service Nationals Only)

a. "Agency" means the Department of State, the Agency for International Development (USAID), the United States Information Agency (USIA), the Department of Commerce and the Department of Agriculture.

b. "Claimant" means an employee, dependents, executor of a former employee's estate, court appointed guardian, or other legally-qualified person.

c. "Compensation" means basic salary (including regular periodic step increases), premium compensation, bonus payments, and any other pay or allowances authorized for the employee in the local compensation plan.

d. "Dependent" means a spouse; an unmarried child (including an unmarried dependent step-child or adopted child) under 21 years of age; a dependent mother or father; a dependent designated in official records; or an individual determined to be dependent by the agency head concerned or designee.

e. "Employee" means any current or former Foreign Service National (FSN) employee of State/USAID/USIA/Commerce/Agriculture including one under a personal services contract when authorized by law, who is or has been imprisoned by a foreign government.

f. "Principal U.S. representative" means the principal State Department representative in a foreign country.

3 FAM 7718.3 Authority

3 FAM 7718.3-1 Legal

(TL:PER-237; 1-1-95)

(Uniform State/USAID/USIA/Commerce/Agriculture)

(Applies to Foreign Service Nationals Only)

Section 410 of the Act provides for compensation of certain FSN employees imprisoned by a foreign government, under regulations prescribed by the Secretary of State.

3 FAM 7718.3-2 Authority Under the Missing Persons Act

(TL:PER-237; 1-1-95)

(Uniform State/USAID/USIA/Commerce/Agriculture)

(Applies to Foreign Service Nationals Only)

The following officials, for purposes of this section, are authorized to exercise the same powers with respect to current or former FSN employees as the agency head has under subchapter VII of chapter 55 of title 5, U.S. Code, to the extent that such powers are consistent with this section:

- (1) State--The Under Secretary for Management;
- (2) USAID--The Director, Office of Human Resources, or designee;
- (3) USIA--The Director, Office of Personnel;
- (4) Commerce--The Director, Office of Personnel, Office of the Secretary; or
- (5) Agriculture--Secretary of Agriculture, or designee.

3 FAM 7718.3-3 To Determine Validity of Imprisonment

(TL:PER-237; 1-1-95)

(Uniform State/USAID/USIA/Commerce/Agriculture)

(Applies to Foreign Service Nationals Only)

The State Deputy Assistant Secretary for Personnel having jurisdiction over the administration of the FSN program is authorized to determine that an FSN employee's imprisonment is or was the result of the individual's employment by the United States.

3 FAM 7718.3-4 To Approve Payment

(TL:PER-237; 1-1-95)

(Uniform State/USAID/USIA/Commerce/Agriculture)

(Applies to Foreign Service Nationals Only)

The following officials are authorized to approve payment of compensation under the terms and conditions in this section:

- (1) State--The Deputy Assistant Secretary for Personnel;
- (2) USAID--The Director, Office of Human Resources, or designee;
- (3) USIA--The Director, Office of Personnel;
- (4) Commerce--The Director, Office of Personnel, Office of the Secretary;
or
- (5) Agriculture--Secretary of Agriculture, or designee.

3 FAM 7718.4 Applicability

(TL:PER-237; 1-1-95)

(Uniform State/USAID/USIA/Commerce/Agriculture)

(Applies to Foreign Service Nationals Only)

This section applies to current or former FSN employees of the agencies, including persons employed under personal services contracts, when authorized by law, who are or were imprisoned by foreign governments as a result of U.S. Government employment.

3 FAM 7718.5 Locating and Notifying Eligible Persons

(TL:PER-237; 1-1-95)

(Uniform State/USAID/USIA/Commerce/Agriculture)

(Applies to Foreign Service Nationals Only)

Agencies are responsible for making a reasonable effort to locate and notify all eligible persons of their possible entitlement under this section and assisting them in submitting claims.

3 FAM 7718.6 Filing Deadline

(TL:PER-237; 1-1-95)

(Uniform State/USAID/USIA/Commerce/Agriculture)

(Applies to Foreign Service Nationals Only)

No compensation or other benefit shall be awarded under this section unless a claim is filed within 3 years after:

(1) August 17, 1977;

(2) The date imprisonment ended; or

(3) The date of the claimant's first opportunity to file such a claim, as determined by the appropriate agency official listed in Section 3 FAM 7718.3, whichever is later.

3 FAM 7718.7 Qualifying Terms and Conditions

(TL:PER-237; 1-1-95)

(Uniform State/USAID/USIA/Commerce/Agriculture)

(Applies to Foreign Service Nationals Only)

The following qualifying terms and conditions govern payment of compensation under this section:

(1) The employee (including an FSN employee under a personal services contract when authorized by law) was employed by the U.S. Government at the time of imprisonment;

(2) The employee was imprisoned by a foreign government;

(3) The employee's imprisonment was the result of employment by the U.S. Government;

(4) Where payment is to be made to a claimant other than the employee, the claimant has legitimate right to payment as determined by the appropriate agency official listed in Section 7718.3.

(5) A claimant (principal or beneficiary) is barred from assignment of rights or benefits granted under this section;

(6) For periods of imprisonment that terminated prior to August 17, 1977, payment is authorized only to an employee or former employee alive as of that date who files a claim within the time limits in Section 7718.6, and there is reasonable evidence still available that the claimant was imprisoned as a result of employment by the U.S. Government; and

(7) For periods of imprisonment that terminate on or after August 17, 1977, payment is authorized to an employee, to dependents while the employee is imprisoned, and, upon death of the employee during imprisonment, to dependents in the order of precedence in Section 3 FAM 7718.2 , or other person whom the Deputy Assistant Secretary for Personnel determines to be entitled to payment.

3 FAM 7718.8 Amount of Benefit

(TL:PER-237; 1-1-95)

(Uniform State/USAID/USIA/Commerce/Agriculture)

(Applies to Foreign Service Nationals Only)

a. Compensation may not exceed an amount that the appropriate agency official listed in Section 3 FAM 7718.3-3 determines to approximate the salary and other benefits to which an employee or former employee would have been entitled had the individual remained employed during the period of such imprisonment.

b. An appropriate agency official listed in Section 3 FAM 7718.3-4 will deny or reduce compensation to employees who may have received other relief, such as through private legislation enacted by the Congress.

3 FAM 7718.9 Procedures

3 FAM 7718.9-1 Making Application

(TL:PER-237; 1-1-95)

(Uniform State/USAID/USIA/Commerce/Agriculture)

(Applies to Foreign Service Nationals Only)

The claimant submits a written application for compensation under this section to one of the following, as appropriate:

(1) The agency facility, in the locality of imprisonment, for whom the employee worked at the time of imprisonment;

(2) The principal U.S. representative when the employing agency is no longer located in the locality of imprisonment;

(3) The diplomatic mission representing the United States in the locality of imprisonment; or

(4) For State, the appropriate bureau executive director, and for USAID and USIA, the appropriate official, listed in Section 7718.3, or the agency for whom the employee worked when imprisoned, if submission to one of the contact points listed in the section above is not feasible.

3 FAM 7718.9-2 Documentation

(TL:PER-237; 1-1-95)

(Uniform State/USAID/USIA/Commerce/Agriculture)

(Applies to Foreign Service Nationals Only)

The claimant or the employee's agency must obtain and submit to the appropriate agency official listed in section 3 FAM 7718.3 the following in support of a written claim:

(1) A certified copy of official records, including Notification of Personnel Action, verifying employment, salary, and benefits being paid the employee at time of imprisonment, the dates of beginning and ending of imprisonment, and an estimated cost of payment of the claim;

(2) Official documents verifying the amount of salary and other benefits which would have been payable had employment continued through the period of imprisonment, and a statement as to whether the employee received other financial relief, such as through private legislation enacted by the Congress;

(3) Legal documents supporting the relationship of the employee to the claimant, if other than the employee;

(4) Documentation of the agency's investigation of the claim, including circumstances leading to and the reasons for imprisonment; and

(5) Recommendation of the principal U.S. representative in the country in which imprisonment occurred (or the appropriate agency official listed in Section 3 FAM 7718.3, if there is no longer U.S. representation in the country), including a statement as to whether imprisonment was the result of employment by the U.S. Government.

3 FAM 7718.9-3 Approval of Claim

(TL:PER-237; 1-1-95)

(Uniform State/USAID/USIA/Commerce/Agriculture)

(Applies to Foreign Service Nationals Only)

(a) For State--The appropriate bureau executive director, having jurisdiction over the post by whom the employee was last employed preceding imprisonment, forwards the claimant's application and the documents listed in Section 3 FAM 7718.9-2, together with a recommendation, to the Deputy Assistant Secretary for Personnel for determination that imprisonment is or was the result of the FSN's employment by the U.S. Government, and for approval of the claim;

(b) For USAID, USIA, Commerce, and Agriculture--The appropriate official listed in Section 3 FAM 7718.3 forwards the claimant's application and the documents listed in Section 3 FAM 7718.9-2, together with a recommendation, to the Deputy Assistant Secretary for Personnel, Department of State, Washington, D.C. 20520, for determination that imprisonment is or was the result of the FSN's employment by the U.S. Government;

(c) The Deputy Assistant Secretary for Personnel--Advises the appropriate USAID, USIA, Commerce, or Agriculture official listed in Section 3 FAM 7718.3 in writing of that determination;

(d) Disposition of Approval Memorandum--After the appropriate approving officer (see section 3 FAM 7718.3) signs the approval memorandum, that officer shall forward the memorandum with supporting documentation for payment to one of the following, as appropriate:

- (1) State - The appropriate payroll center;
- (2) USAID - The Director, Office of Human Resources);
- (3) USIA - The Chief, Financial Operations Division (M/CF);
- (4) Commerce - The Chief, Financial Operations Division; or
- (5) Agriculture - FAS Management Services Division.

(e) Notification--After certifying payment, the certifying official will promptly advise the appropriate agency official listed in Section 3 FAM 7718.3.

3 FAM 7718.10 Notification of Payment

(TL:PER-237; 1-1-95)

(Uniform State/USAID/USIA/Commerce/Agriculture)

(Applies to Foreign Service Nationals Only)

The appropriate agency official listed in Section 3 FAM 7718.3 will promptly notify the claimant if payment has been approved and, if so, that a check will be processed by the appropriate payroll center.

3 FAM 7718.11 Other Benefits

(TL:PER-237; 1-1-95)

(Uniform State/USAID/USIA/Commerce/Agriculture)

(Applies to Foreign Service Nationals Only)

Any period of imprisonment of an FSN which is compensable under this section shall be considered for purposes of any other employee benefit to be a period of employment by the U.S. Government, with the following exceptions:

(1) A period of imprisonment shall not be creditable toward Civil Service retirement unless the employee was covered by the Civil Service Retirement and Disability System during the period of Government employment last preceding the imprisonment, or the employee qualifies for annuity benefits by reason of other services; and/or

(2) A period of imprisonment shall not be considered for purposes of workers' compensation under Subchapter I of Chapter 81 of Title 5, U.S.C., unless the Foreign Service National was employed by the U.S. Government at time of imprisonment.

3 FAM 7718.12 Advisory Services

(TL:PER-237; 1-1-95)

(Uniform State/USAID/USIA/Commerce/Agriculture)

(Applies to Foreign Service Nationals Only)

The Office of Foreign Service National Personnel (PER/FSN), Bureau of Personnel, Department of State, will provide interpretive and advisory services relating to any aspect of this subchapter.

3 FAM 7719 UNASSIGNED